

**OPINION**  
**73-595**

March 7, 1973           (OPINION)

Mr. D. K. Stetson  
State's Attorney  
Ransom County  
Lisbon, ND 58054

Dear Mr. Stetson:

This is in response to your letter of March 6, 1973, with regard to giving notice of the annual township meeting.

You inform us that it seems to be quite a common practice for the clerk of a township to give notice of the annual meeting by merely publishing the notice of such meeting in a local paper, either once or twice. You state that upon reading over section 58-04-01 of the North Dakota Century Code, it seems to you that technically there is no provision for giving notice of an annual township meeting by publication, but rather such notice is required to be given by posting a written or printed notice in three most public places in the township at least 10 days prior to the meeting. You state that the problem is further compounded by the fact that most townships now days do not have any public places situated within the boundary of the township.

You ask whether you are missing a section of the law permitting the publication of such notice in lieu of the posting of these notices. You state that if you are correct, then it seems to you that you should go to the legislature during the next session to correct the problem. You state that you realize that it is too late to bring this to the attention of the legislature at this time, if such a need even exists.

We agree with your research to the effect that the provision for giving notice of annual meeting is as specified in the second sentence of section 58-04-01 of the North Dakota Century Code, to wit:

" \* \* \* Notice of time and place of holding the meeting shall be given by the township clerk by posting written or printed notices in the three most public places in the township at least ten days prior to the meeting \* \* \* "

This statutory provision would appear to be mandatory; it must be followed.

There is probably no real problem with regard to no "Public Places". You might consider in this regard the various notes in WORDS AND PHRASES, Permanent Edition, Volume 35, pages 432 through 453, in this regard indicating various types of locations that have been considered to be or not to be "public places" including such things as trees, highways, roads, posts and various types of buildings, including in some instances privately owned buildings, where business is done with the public. You might also see in this regard section

58-03-09 of the North Dakota Century Code.

On such basis, we would conclude that there either are "public places" within the township, or the township electors should establish same, under said section 58-03-09.

While we do agree with you that there is no statutory requirement of "publication" in newspapers, as opposed to "posting", we do note, however, such provisions as subsection 6 of section 58-03-07 of the North Dakota Century Code, that:

"58-03-07. POWERS OF ELECTORS. The electors of each township have the power at the annual township meeting:

\* \* \*

6. To make such bylaws, rules, and regulations as may be deemed necessary to carry into effect the powers granted to the township;

\* \* \* "

Thus, while posting as specified in the heretofore quoted sentence of section 58-04-01 would be essential, regardless of whether or not there was a publication, we could see no reason why, in proper cases, a township bylaw could not be enacted providing for publication of such notice as well.

We would tentatively assume that the lack of a specific statute authorizing publication in all cases may be due to the fact that unlike the case with many counties and cities, there are very few, if any, newspapers made available to the public only within the confines of a particular township, and the expense of publishing a notice of township meeting in a newspaper published statewide, or countywide, might be rather a large amount.

We hope the within and foregoing will be sufficient for your purposes.

Sincerely yours,

Allen I. Olson

Attorney General